IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 99 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

==========

1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SANJAYKUMAR VINODCHANDRA SHAH (JAIN)

Versus

ANKUR ENTERPRISES THRO' PROPRIETOR

Appearance:

1. Civil Revision Application No. 99 of 2002

MR BD KARIA for Petitioner No. 1

MR DIPAK R DAVE for Respondent No. 1

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 23/10/2002

ORAL JUDGEMENT

The present Civil Revision application is filed against an order passed by the learned Civil Judge (SD),

Mehsana on 17.1.2002 below Summons for Judgment as well as Exh.18 - leave to defend application in Summary Suit No. 6 of 2001, whereby the learned trial Judge has directed the original defendant to pay Rs.7,31,721/along with interest at the rate of 12% to the plaintiff. The learned Judge has refused to grant leave to defend the suit and ordered to draw the decree separately. Since it is a composite order passed by the trial Court, the petitioner has challenged the same in the present Civil Revision Application.

2. Heard Mr.B.D.Karia, learned Advocate appearing for the petitioner and Mr.Dipak Dave, learned Advocate appearing for the respondent. After hearing the parties, I am of the view that the order passed by the learned Civil Judge requires interference of Court and the petitioner is required to be put to certain terms. Accordingly, the impugned order is quashed and set aside and the petitioner is directed to pay an amount of Rs.2,50,000/- (Rupees Two lakh and fifty thousand only) on or before 30th January 2003. On depositing of such amount, the present respondent - original plaintiff is entitled to withdraw the said amount on furnishing security to the satisfaction of the trial Court. The Trial Court is directed to decide the suit as expeditiously as possible preferably on or before 30th June 2003. It is clarified that this Court has not gone into the merits of the matter.

3. Since a consensus is arrived at between the parties, while deciding the suit, the trial Court may not be influenced by the order passed in the Summons for Judgment and also the order passed by this Court in this Civil Revision Application imposing condition of making payment of Rs.2,50,000/- by the petitioner to the respondent and the trial Court shall decide the matter on the basis of the evidence, led by the parties and on the basis of the merits of the matter.

4. With the above observations and directions, this Civil Revision Application is allowed and the Rule is made absolute to the above extent with no order as to costs.

The undertaking filed before this Court would continue till the suit is finally disposed of.

(K.A. Puj, J.)
Sreeram.